THE PUBLIC DEFENDER[1]

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During the past two years members of the Committee have investigated by personal visit the three principal instances of Public Defender in this country and reports this year on findings of fact and on the judgments passed by officials and others best qualified to comment on Public Defender Service.

As is generally known, the Public Defender, whether as public official or voluntary counsel, serves for the defense in criminal cases, and in some jurisdictions as the poor man's lawyer, by assignment of the court or otherwise.

The three instances selected by the Committee for examination are the three most important now functioning in this country and vary in legal foundation, organization and service rendered. They are the Public Defenders for Los Angeles, the Voluntary Defenders' Committee for New York County, and the County Public Defenders in the State of Connecticut.

Two Public Defenders function in Los Angeles, one chosen by the County Board of Supervisors and the other by municipal civil service examination. They handle both criminal and civil cases, the latter service being that done by legal aid societies in many eastern cities. The first Public Defender for the higher courts of Los Angeles was Hon. Walton J. Wood, recently elected Justice of the Superior Court, and succeeded by his first assistant, William T. Aggeler. James H. Pope, first in the civil service examination, was appointed Public Defender for the City Police Courts and still holds that position.

The Voluntary Defender Committee of New York County was organized by a group of lawyers, several of whom had become convinced of the need of the service by experience as prosecuting attorneys. When committees of the Bar Association and of the County Lawyers' Association condemned the plan of an official Public Defender, but approved the service, the Committee named came into existence to make an experimental three-year test. At the end of this period the Committee unanimously approved the work and resolved to continue it in affiliation with the Legal Aid Society.

[1]Read at the thirteenth annual meeting of the Institute, in Cincinnati, Ohio, November 19, 1921.

[2]Chairman of the Committee on this subject and newly elected President of the Institute, North Haven, Conn.

The first Defender for New York County was William Dean Embree, formerly Assistant District Attorney, who served three years and resigned to be succeeded by Louis Fabricant also of the District Attorney's office.

The County Defenders in Connecticut are appointed by the judges of the Superior Court for one year. The appointments are usually renewed.

The office of Public Defender for Los Angeles County and for the counties of Connecticut was created by state law. During the past year a bill was passed giving all counties of California the power to appoint Public Defenders. The State Bar Association of Connecticut at its annual meeting approved the work of the county Public Defenders, the retiring Chief Justice of the Supreme Court of the state in a speech warmly commending it and urging that the Defenders be given wider powers. The State Legislature accordingly passed a bill enlarging the powers of the County Defenders and extending service to courts formerly inaccessible to them.

The salary of the Public Defender for the higher courts in Los Angeles is paid by the county, for the lower courts by the city; the salary of the New York Defender is fixed and paid from voluntary contributions; the salaries of the Connecticut County Defenders are fixed by the judges of the Superior Court on the basis of services rendered.

The comments of prosecuting attorneys, judges and other intimate observers on the work of the Defender have been almost uniformly favorable. District attorneys from their position might be expected to be hostile, but in fact have been the warmest endorsers of the work and the chairman knows of no prosecuting attorney who has dealt with a Public Defender who does not approve the work.

Judges, lawyers and social workers in touch with the service were hardly less unanimous in their approval, criticisms being confined to the undeniable fact that the defenders were sometimes human.

The only sharply dissenting opinion was that of a lawyer who disqualified by admitting that he knew nothing of the work done and completed his disqualification by the irrelevance and ignorance of his theoretical objections.

The grounds of this general approval may be apparent from available reports of the work.

The most complete report of the Public Defender of Los Angeles

County is that from July 1, 1916, to July 1, 1917. The facts are given in comparison with criminal cases handled by other attorneys.

	Other Attorneys	Public Defender
No. of cases	472	303
Pleas guilty	186	202
Pleas not guilty	280	87
Trials	121	51
Verdicts guilty	67	29
Verdicts not guilty	30	19
Jury disagreed	23	3

Comparison with the work of appointed attorneys in 1913, the last calendar year before the establishment of the Public Defender, is no less instructive:

	Appointed Attorneys 1913	Public Defender 1916-1917
No. of cases	...	...
Pleas guilty	71	202
per cent of cases pleas guilty	61.7	66.6
No. of trials	30	51
Per cent of cases tried	26	16.8
Verdicts guilty or disagreed	6	22
Per cent guilty or disagreement	20	43.1

In view of the travesty of dignified procedure which so often occurs in criminal cases when insanity is the defense, we gladly record the statement of the Public Defender that "wherever possible the two offices (the District Attorney and the Public Defender) have stipulated to ask the court to appoint expert witnesses who should represent both sides and who should be the only expert witnesses in the case." The Public Defender entered pleas of guilty in 66% of cases, other attorneys in only 39%; only 16% of the Public Defender's cases went to trial against 25% of private counsel; 37% of the Public Defender's cases were acquitted against 25% of private attorneys. The average time occupied by the Public Defender in trials was a little less than half that required by private counsel, due in part, we think, to the Public Defender's freedom from the necessity to make grandstand objections, usually valueless and degrading to the dignity of the courts.

The same conclusions may be drawn from the work of other Defenders investigated by the Committee.

The Public Defenders of Los Angeles also render service to the courts in presenting the results of their investigations as to mitigating circumstances in the character and records of their clients, aid defendants and the public by obtaining employment for clients acquitted or released on probation, and otherwise maintain a personal interest in

their welfare. While occasionally private counsel do the same, the record of the majority in large cities is of indifference and of depraving their clients by aiding or conniving at devices to deceive and disgrace the courts of which they are officers.

Important facts regarding the work of the Voluntary Defenders' Committee must be added. During the first nine months of its service the staff handled 553 cases and investigated eighty-three others. Four hundred and eighty-four were cases in the trial courts. All but thirty-eight were felony cases and nearly all were assigned by the court. Forty-eight, or ten per cent, resulted in trials from which there were twenty-two convictions, twenty-four acquittals and two disagreements; two hundred and eighty-eight clients pleaded guilty as charged or on a minor charge. Of all defendants who pleaded guilty in the period, the Voluntary Defender advised one out of every six. After a plea of guilty was entered the investigators of the Committee thoroughly examined their client's record and brought out extenuating circumstances or offered constructive suggestions which the Defender believed might be made with justice to the state and with benefit to the accuser and his dependents. The Committee has frequently secured positions for clients and in many cases has even induced prospective employers to come to court and give their assurance to the jurors. It has also been a clearing house for the many charitable societies of the city to which clients have been referred.

As to the problem of conscience arising where the Public Defender is called upon to go to trial, his statement is interesting that "all of those who went to trial asserted their innocence throughout. Of the twenty-two who were convicted, we had some doubt about the innocence of perhaps ten. Of the twenty-four who were acquitted, we believed in the innocence of all except two or three. These, however, strongly protested their innocence and it was clearly our duty to see that they had a fair trial. We have conducted the defense in a number of trials where we were convinced that the defendants were innocent, but the odds were very greatly against them. All have resulted in acquittal and have given a further foundation to the belief that, with a carefully conducted defense, no innocent made is found guilty."

It is the policy of the Voluntary Defender to have his clients take the stand. Of the forty-eight tried, all were willing and all but two did so.

In its report for 1920, at the end of three years of experiment, the Committee states that it has given legal aid principally, but has laid almost equal emphasis on social services. During 1920 the Committee

acted as counsel for four hundred sixty-three defendants, of whom two hundred forty-eight pleaded guilty. Of the balance, thirty-six defendants were discharged on recommendations of the District Attorney. In many of these cases the Defender frankly presented his case to the District Attorney and the defendant's release was obtained. Of sixty-five cases tried, there were thirty-three acquittals and thirty-two convictions. Many of these convictions were for a lower degree than was charged in the indictment.

The resume of the work of the Voluntary Defenders' Committee for the years 1917-1920 is as follows:

	Cases
1917	484
1918	533
1919	697
1920	463

DISPOSITIONS

	1917	1918	1919	1920
Pleaded guilty on arrest	242	46	22	24
Pleaded guilty after arrest	46	69	82	118
Tried and convicted	22	28	34	32
Tried and acquitted	24	30	28	33
Discharged on D. A. motions	37	35	45	36
Other dismissals	34	41	58	23

No statistics or reports are available regarding the work of the Public Defenders in the various counties in Connecticut.

In closing this report, let me quote a paragraph of a statement by Presiding Justice Frank R. Willis of Los Angeles in reply to a letter of inquiry sent him by the Civil League of San Francisco. He declares: "I have no hesitation in saying that in the interests of justice, economy and a square deal between the defendant and the public, the office of Public Defender will be found beneficial in all the more populous counties of the state."

The Committee regrets that in spite of the uniform approval of the service of Public Defenders, such service has been so little adopted in the United States. In contrast to this statement, we note the praiseworthy universal provision of Public Defender Service in the countries of continental Europe, and still more to our sharing of its provision in each state or province by our troubled neighbor, Mexico. When shall we catch up with Mexico? Will not the Institute take action to promote the establishment of Public Defenders throughout our country? That such decision may result from our inquiry is the unanimous desire of your Committee and to that end we offer the following resolution:

"In view of the report of the Committee on Public Defenders, which finds their service to be just, economical, and beneficial to the

community and to defendants, and an important contribution for the better performance of their respective duties by judges and prosecuting attorneys, we recommend the extension of such service as a moral need, a public duty and an essential adjunct of the machinery of justice."

Discussion

Mr. Louis Fabricant: Mr. Chairman, Ladies and Gentlemen—When I was informed that I was to speak at this conference about The Public Defender, I immediately set to work to write a thesis on the theoretical aspects of the subject, and succeeded to some extent, but then was informed by the chairman that what we were to have here was a more or less detailed narrative of the actual conduct of the work that we have been doing in New York County. So that I shall ask you to indulge me in extemporaneous delivery, rather than in the reading of a paper.

As has been indicated by the chairman, the Voluntary Defenders Committee in New York County was fostered as a result of an inquiry instituted by the bar associations. They were concerned with the question as to whether a public defender should be instituted, and, after much discussion, almost unanimously resolved that there should not be a public defender, but they did point out what was unquestionably true in New York—and it is perhaps true in other communities—that indigent, friendless defendants appearing at the bar of criminal courts were not being taken care of properly; and they pointed out that it would be advisable to have a voluntary organization. That was the genesis of the idea in New York County. Then a survey was made among some laymen and members of the bar and a number of the judges and public officials were conferred with, and the thought was carried into practice by the organization of a voluntary association to be supported by the contributions of those individuals in the community who were interested in this type of social service. Quarters were given to the organization by the city in the Criminal Courts Building, so that at once the voluntary organization assumed a quasi-public appearance, for, with offices located in the Criminal Court Building, almost in juxtaposition to the district attorney's office, it became manifest to those dealing with this voluntary association, that they were dealing with a quasi-public institution.

In the four and a half years that it has been in existence the committee conducted the defense for about 2,600 men charged with felonies in the Court of General Sessions in New York County. The method of approach and the conduct of a man's defense is a dual one. A lawyer is ordinarily more particularly interested with the immediate facts involved in the charge. The Voluntary Defenders Committee goes beyond that. It undertakes the careful preparation of the social aspects of the case of the defendant. You have heard so much here in the last day of the social aspects of the criminal case and of the social aspects of criminal law generally, that you will readily understand the thought that we feel that we are not merely lawyers to represent a defendant, but that we are a social agency to promote the investigation which is on foot, and where the man is guilty, to help to solve the problem of the rehabilitation of the individual. That solution cannot be obtained by us or by the community unless some agency digs into the antecedents of the defendant and col-

lects the information that will bear upon an intelligent disposition of the man's case. When we start the defense of a man, it is not always a contest to establish his innocence—it is an endeavor to find the facts, both as to the legal charge that is pending against him and as to the antecedents with which the man comes to the court. As a result of that type of investigation and of a sympathetic approach to the defendant, we find that it is not always true that innocent men are being sacrificed on the altar of the monster "Injustice"; that, in fact, many of these men are guilty. Almost in the first instance of the approach of the Voluntary Defenders' Committee to these men, and, of course, in many cases after careful talk with the defendant—showing him what the charge is, and going over the facts with him—we get a statement from him that he is guilty. It would perhaps not be surprising to you to know that almost seventy per cent of the cases that we have handled have resulted either in the first instance, or at some time later in the course of the proceedings, in the man's complete confession that he is guilty. A most recent instance of that happened only this week, when my associate, Mr. Collings, was trying a case of a man charged with burglary. He had almost convinced himself from our investigation that the man was innocent, but yet there was evidence against the man that raised a question in counsel's mind. The defendant actually went on the stand, but while that man was on trial our investigation was also in process to check up some of the things he said. It wasn't because of a lack of preparation in the first instance, but by reason of the new things that had arisen in the course of the trial that further investigation was on foot. By reason of the testimony of the prosecutor which was brought out, the defendant testified that he had been lying in the initial testimony that he gave, that he had been induced to lie by his fellow prisoners in the city prison, and then openly avowed his guilt on the stand. before the judge and the jury. That was the result of careful investigation. It emphasizes the social aspect of the case because in such a case the institution has been the instrumentality for bringing out the truth, and for starting the man on the true course of rehabilitation, which cannot proceed with a man whose heart is corrupt.

The cases that we get come to us now from many sources. At the beginning the bulk of the cases came from the court itself. When the poor, indigent man was arraigned at the bar and stated that he had no counsel, many of the judges at once assigned the Voluntary Defenders' Committee. There have been, as you may know, in the large cities a coterie of lawyers who had earned the designation of professional assignment chasers. We have to an extent eliminated that, but because of the limited number on the staff of the Voluntary Defenders' Committee, there still remains some of that number. We have handled approximately 50 per cent of all the felony cases assigned in the County of New York and of that 50 per cent, after the pleas of guilty, as I have indicated to you, there remained, I should say, about 15 per cent which required trial. Those were the cases of men who insisted that they were innocent, and their cases were investigated by professional investigators whom we employ, and who are regular members of the staff, and the evidence collated and presented to the jury in the regular way.

The verdicts are sometimes disappointing. We have had cases of men who counsel thought in the first instance were guilty. You might ask counsel for the Voluntary Defenders' Committee why he went to trial with the case of a man he thought was guilty, that is, a case where the proof was apparently overwhelmingly against the man, but where the defendant steadfastly maintained his innocence of the charge? Now, that was a very troublesome matter, because we felt that it was inconsistent with our social duty as high-minded, decent citizens to go in and take up the time of the court with cases where the defendant was apparently guilty. The justification for our position in doing that was found in the canon of ethics of the American Bar Association, which directs the lawyer not to judge his client, because there may be a case of error on the lawyer's part—there may be misjudgment in his mind, and it is his duty to utilize every defense that the law of the land provides. So that when we have a man who protests that he is innocent, despite a mountain of evidence, we feel the legal justification, although, perhaps, not always a deep sense of moral justification, in going forward with his defense, though, as I said, the results are sometimes surprisingly disappointing. I mean by that, that there have been a large number of instances in which the wisdom of the canon of ethics I have referred to has been vindicated, because men apparently guilty have been acquitted by juries after carefully sifting the facts. On analyzing that situation, I discovered in myself a trend to minimize the value of defenses that had been offered by those innocent men, and because of my experience as a prosecutor that I had been minimizing wholly decent, truthful defenses and regarding them as perhaps untrue, because I had been in a position where it had been my leaning to regard such things as fabrications. The juries in many of those cases judge the evidence from the impartial point of view of the by-stander, and discover that what was apparently overwhelmingly true, was indeed not the truth. We have not approached our work in the hope that we are going to acquit every man whom we defend, and we do not judge the success of the work by the number of acquittals, nor by the number of suspended sentences that we obtain.. It has so happened that the number of acquittals in the cases we have handled slightly exceed the number of convictions; but that isn't at all significant; it doesn't mean anything to us; it simply means when you compare them with the number of pleas of guilty, there is always that corruption in the hearts of a few defendants that leads them to the hope that they may go right through with it, have the benefit of good counsel, and perhaps, as they term it, "get away with it."

We have recently had a more difficult situation, and at the time that the first report of our work was prepared, it was hinted that the day might come when Voluntary Defenders Committee's Counsel might have to go to court and try the case of a confessedly guilty man. I had the case of a man charged with a very serious robbery, about three weeks ago. The man had been abandoned by retained counsel, or rather counsel who had been perhaps flirting for a fee and who had not procured it, and the court assigned us to defend this robber. He had a bad record, and after consultation with him he told me that he was guilty, and that his co-defendant was guilty, but his co-defendant had money and had

hired counsel, and was going through with it. This defendant, in the hope of escaping the unpleasant duty of testifying against his confederate in crime, told me that he would not plead guilty. Now that was a serious situation. We had to solve the situation in some way. Here was a man telling me that he was guilty, appealing to my professional confidence, and yet at the same time, putting me in the position of having to go into court and go through a sham battle with evidence that I knew was the truth. I went to the judge presiding at the court, and I didn't feel that I was breaching any confidential relationship, when I told the judge that this defendant had confessed his guilt, but that out of a false sense of loyalty to his confederate, he didn't want to plead guilty. The judge said, "Let's go right ahead with the case and try it; let the district attorney present his proof, and you cross-examine the witnesses as hard as you know how, and let this case be established, and then this defiant defendant will be punished." So we started the trial, and witnesses, one after another, came along, and there wasn't any question as to the sufficiency of the proof. I had been forced into the gap to cross-examine those witnesses, and they were cross-examined with all the vigor at my command, to make sure that they knew what they were talking about and that what they said was the truth. Of course, we didn't let the defendant take the stand in that case, as we were not going to be parties to a known perjury. The case was established, the man was promptly convicted, of course, and was promptly sentenced, but all the time presenting this other aspect of a defiant man taking arms against society, not willing to yield his position at any time, one who would rather accept his punishment, which, in this instance, was twenty years in the state prison of New York, rather than give up the evidence that would help to convict his confederate. There we have a problem in psychology for those who are interested; to determine why a man should be willing to serve twenty years in jail rather than secure his liberty by telling the truth. But he was unregenerate, unyielding, and stiffnecked to the last minute. We felt that we were doing a public service in eliciting the evidence with the aid of the district attorney, and in helping to bring the man to justice.

Now, the feature of our work, which is most interesting, is the co-operation which we have given and have received from the other officers of the community. You must remember that we are private counsel, that we really have not the standing of a public officer, that we are not supported by public funds, despite which the attitude of all public officers towards us has been one not only of co-operation but of friendly intimacy and hope that an institution of this kind—the Vountary Defenders' Committee—will really help to solve the problem of giving justice to these poor men who cannot hire lawyers. I don't believe I can talk in general terms about co-operation half as well as by giving you specific instances and I shall ask the indulgence of the chairman to point out three cases, which exemplify the type of co-operation that the quasi-public office, or a public office of this sort, can have from the rest of the community, and can give to it.

I shall take, first, a case of co-operation by the district attorney. There was a man who, in 1920, was engaged in large contract relations with the government of the United States, and he was skating along in the most

beautiful fashion, making large sums of money, riding in limousines, traveling from city to city and stopping at the best hotels, indulging in vices which ultimately came to plague him, and finally he was arrested in New York and twice indicted for grand larceny. The charge was in each instance that he had stolen some $5,000.00 from the same complainant. He and the complainant had had intimate business relations during the course of six or seven months, and during that time the complainant had invested, through the defendant, in government contracts, approximately $45,000.00. It was claimed by him that the defendant, acting as his agent, had received one of those sums of $5,000.00, and had converted it to his own use, in the manner I have just indicated. The complaining witness produced as evidence of the fact that he had given this man $5,000.00 as his agent, a receipt on a telegraph blank, purporting to be signed by the defendant. The district attorney investigated the case, which involved a long series of intimate relationships, business accounts, bank schedules and matters of that sort, and the verity of this receipt. The district attorney had an expert handwriting witness come to his office and examine the receipt upon which the whole case depended, and the handwriting expert, after examining the signature gave it as his opinion that it was not in the handwriting of the defendant who was charged with the larceny. That wasn't all; the district attorney submitted to the expert the genuine writing of the complaining witness, and after careful examination of that handwriting, the handwriting expert told the district attorney that in his opinion the signature on the receipt, purporting to have been made by the defendant, was made by the complaining witness, and that it was a forgery. The complaining witness was then questioned by the district attorney, and, of course, he denied it. He said it was signed in his presence by the defendant. The complaining witness was a venerable looking gentleman, about 55 years of age, who had never been in any trouble, a man of wealth, and there wasn't any apparent reason why he should have committed a forgery. Here was a person pressing his claim that money had been stolen from him, and the evidence right before the district attorney that perhaps that complaining witness had forged a document in order to fasten guilt upon the defendant. That was a problem for the district attorney. He went to the judge and he came to the counsel of the Voluntary Defenders' Committee, then representing this defendant, and told the judge and counsel for defendant what he had learned from this handwriting expert. We proceeded to trial and tried that case for five days, and under the direction of the court the defendant's lawyer called this expert witness, who was paid out of state funds, and he testified at the trial to the same effect as his statement in the district attorney's office. He testified that the handwriting on the receipt was not that of the defendant, and that in his opinion it was the handwriting of the complaining witness. That case, after five days trial, resulted in a disagreement by the jury. The disagreement is evidence of how juror's minds will work, because the vicious conduct of the defendant, which came to light when he took the stand, and the fact that 12 years before he had been convicted in Detroit came to plague him, and all the jurors told me afterwards that if it hadn't been for his prior conviction and vicious conduct, they

would have acquitted him. After the disagreement, the district attorney felt that he had done all that his duty required him to do, and the man was later discharged under those two indictments.

Now for an instance of co-operation by the Defenders' Committee with the district attorney. There was a man called John Kelley, about 58 years of age, a devout Catholic and a devout believer in the repeal of the prohibition law, who had gone out one Saturday night and had spent a little of his money in drinking, and then on Sunday morning he armed himself with his rosary beads and his cross and went to church. On his way back from church he got a very strong impulse to go back and resume his drinking. He did so, and in the place there was a young man who had imbibed a little liquor, too. The young man started an argument concerning two subjects, both of which affected John Kelly very strongly. The young man called John Kelly a Sinn Feiner, and he said John Kelly was a Mason, and the argument waxed warm. John Kelly said he was not a Sinn Feiner and not a Mason, and he pulled out his beads and said he had been to mass that morning. I suppose if that young man had not been drinking that would have been convincing proof as to Kelly's exact status on those questions, but that wasn't proof to the young man, and as the argument waxed still warmer, it became necessary for the bar-tender, who was giving them mild vanilla sodas to drink, to put out John Kelly. John Kelly was put out and the young man was kept in the back room of this bar. In a short time someone came to the door. The district attorney's evidence showed not who that person was, but when the door was opened two or three inches the young man inside the bar room got excited and said, "Let me get at him." The bar-tender said he didn't see who the person outside was, that he tried to restrain the young man, that the young man said he would kill the bar-tender if he didn't let him out; that he then permitted him to go outside. Now, the district attorney had no proof as to who was outside, but a short time after permitting the young man to go out, the young man was found on the sidewalk, outside of that bar room, with his throat gashed, and in a hallway some 75 feet away, a police officer found old John Kelly, in a half-stupor, in a half-drunken condition, on his knees with the cross before him, apparently in prayer. They took John Kelly over to a drug store, where the dead body was taken, and John said, still apparently drunk, that he had "done it in self-defense." There was no question that John was drunk. That was the condition of the district attorney's case. The Voluntary Defenders' Committee was assigned to defend John Kelly. We conferred with him and John said that he was so drunk he didn't remember any of the facts in the case, and time after time we spoke to him, and time after time he said he didn't remember. And when the knife was shown to him which was in his left hand at the time he was arrested, he said he never had such a knife, and that he was a plumber, and that his knife was a different kind. We started an investigation and we found that at the time of this affray there was a janitress across the street who was passing down her hallway, who had seen a young man come out of the saloon, that John Kelly was standing outside with his back toward the saloon, that the young man came up to Kelly and swung at him, and she said that she then saw Kelly turn around and

make an equally vicious swing at the deceased, that she saw nothing in Kelly's hand, and that the deceased fell down and Kelly staggered down the street. There were thus present some of the elements of self defense, through the evidence that this man said: "Let me get out, I want to get him," and the fact that he had rushed out, and the witness had seen him strike the defendant first, plus the fact that the defendant had suddenly turned around and had dealt a blow to the deceased, which has resulted in his almost immediate death. It was a serious question in that case whether the Voluntary Defenders' Committee should call this witness for the defendant and allow the inference to be made, which was quite obvious, that John Kelly had a knife in his hand ready to commit murder if need be; or to furnish that evidence to the district attorney and to let it come from the district attorney, and then cross-examine the witness and elicit those facts which might help John Kelly. We had all of the evidence from the district attorney and we furnished him with the name and address and the statement of the witness whom we had found. That witness was called to the stand and told the story, and the jury convicted John Kelly of manslaughter, and he was sentenced to two and a half years in prison.

That fairly tells you of the necessary spirit of co-operation that the Voluntary Defenders' Committee must manifest in order to conduct this work from the social aspect. Many of you may have read recently of the woman in Indiana who was charged with forging the signature of Mr. Theodore Roosevelt to a note for $69,000.00. That woman was brought to New York County without extradition and without knowing that under the law, never having been in New York, she might not have been subject to extradition at all. She was brought to New York charged with forgery of Mr. Roosevelt's signature. That is the last example of the kind of co-operation that a public or quasi-public office of this sort can have from the community. It is no ordinary thing for a woman to be charged with forgery of such a famous man's signature, nor to be charged with an effort to collect $69,000.00. When she was arraigned at the bar she plead not guilty, and we were assigned to defend her. She was penniless, absolutely penniless. She had no friends in New York, and apparently few in Indiana, from whence she hailed. Now that was an important prosecution for the State of New York, but the district attorney called me into his office and laid before me every particle of evidence that he had. Then I went to the defendant and she told me a long, detailed story as to how Theodore Roosevelt had given her a note for $69,000.00 at the convention in 1912, in Chicago, when the Bull Moose party was organized, and where she had gotten the money; how an old uncle had left money to her because he was afraid of banks—banks had failed and robbed him of his fortune, and he wasn't going to trust money to banks; how he left a will directing her to loan the money all to one person of good standing and unquestionable financial integrity, and she went along and told a story that on its face was splendid. We couldn't send out to Indiana, Chicago, St. Louis and other places to get witnesses, but we started an investigation by mail, and by the aid of the Red Cross in those various districts, and of other public and social agencies, we checked up every statement of hers as non-existant, absolutely

non-existant. There wasn't a thing that she said that had any true basis for it. We determined then, at least I did, that that woman was insane. There was evidence that while she was yet pregnant in 1912, she had undertaken to win suitors for herself, to get married; that she had not only one husband, but had already buried three others, and that while in this state of pregnancy she thought herself so entitled to the attentions of others she undertook by mail a correspondence with half a dozen other men in the hope of winning them. Then we found she had been charged in Indiana with a forgery of precisely the same type, and that she had been in an Indiana jail, but was released because they had no definite proof of her guilt. And then, two days after her release from the Indiana jail, she undertook the collection of the Roosevelt note. Now I figured to myself, as any normal person would, that this was clearly a mental case. So I went to the district attorney and to the judge and had experts examine the defendant. One, a man who practices in the City Prison of New York and who is assigned there regularly, and who has made a thorough and long study of the mental cases, diagnosed this woman as insane; he said she was a paranoiac, and that this instance of misconduct was clear evidence of paranoia. She was sent to Bellevue Hospital where there is a psychiatric clinic maintained by the public; she was examined there for six or seven weeks, and the report there wasn't one way or the other. For instance, her mental age by the Binet-Simon test was 13 years, and her intelligence quotient at that age was about 92 per cent, but if you had spoken to her you would have certainly thought that that woman had as much intelligence as any business man in this community and the coherent intelligence of her statements was so marked that instead of putting her at the age of 13, you would probably put her at the age of 50. So the report from Bellevue Hospital was negative. Then it became necessary to produce witnesses from Indiana. Here was a penurious defendant, and a Voluntary Defenders' Committee without the funds for bringing witnesses from Indiana, and we went to the court and to the district attorney, and it was arranged by the district attorney, under the direction of the court, to bring the necessary witnesses from Indiana, who might testify upon the question of this woman's guilt or innocence, and throw some light upon her. Now that was cooperation, indeed: two experts paid by the community; witnesses brought by the community; the district attorney laying before the defendant's counsel all the evidence in the case, and offering the opportunity for checking up everything. We went to trial with the plea of insanity, interposed principally on the responsibility of the lawyer, and with the express mandate from the defendant that she was not insane, and didn't wish to have the question of insanity presented to the jury. The trial proceeded, experts testified and the jury ultimately convicted her of forgery, after being out for five and one-half hours, and being requested by the judge to render some solution. They came in with a strong recommendation for extreme clemency on the part of the court, in this case in which a woman had been found guilty of a forgery of a note in the sum of $69,000.00. It was manifestly a compromise verdict. Four of the jurymen were not only convinced that the woman was insane, but they were convinced that the other jurors were insane for saying she was sane, and they had voted

her guilty upon the express understanding that a recommendation of mercy would mean her liberation.

Now I have told you of the co-operation with the court. The Voluntary Defenders' Committee has done a great deal of work at the behest of the court, and we have conducted minor criminal appeals—we have undertaken to get clemency for men where the courts felt that the proper application should be made, and that the case was meritorious. We have been a sort of agency where discouraged lassies came for advice as to their love affairs. We have had women come whose husbands have disappointed them in carrying out the marital vow—we have had some of the problems of unemployment, and others think we are an agency for solving all the social ills of our community. Everybody has learned that a sympathetic consideration will be given to every sort of case; and not only is this a law office, but it is an active factor in the administration of other undertakings of the community. We have become an active center from which many rays of hope go out in every direction to various social agencies who send to us queer cases. For instance, a man was referred to us as to patenting some little article that he had been worrying about, and after a long talk with him and a gentle tap on the back, the man went away well pleased that he had been heard by the proper public agency. That is not strictly in line with law work, but it is an indication of how much room there is in a community like New York for persons to do a splendid service in helping both to administer the law and to smooth down and solve those ills that a great many human beings imagine they have and that others really have.